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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/894,257   | 06/29/2001  | Robert A. Koch       | 60027.7US01         | 5051             |
| 23552  | 7590        | 02/07/2006           | EXAMINER            |                  |
| MERCHANT & GOULD PC<br>P.O. BOX 2903<br>MINNEAPOLIS, MN 55402-0903 |             |                      | DAVIS, CYNTHIA L    |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2665                |                  |

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                  |              |
|------------------------------|------------------|--------------|
| <b>Office Action Summary</b> | Application No.  | Applicant(s) |
|                              | 09/894,257       | KOCH ET AL.  |
|                              | Examiner         | Art Unit     |
|                              | Cynthia L. Davis | 2665         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boloker in view of Lewontin in further view of Bernhart.

Regarding claim 1, a voice-based content request and voice-based content are disclosed in Boloker, paragraphs 76 and 82 (disclosing using voice to complete both ends of transactions). A Voice Portal Node is disclosed in Boloker, figure 24, element 213. A WAP Server operative to receive of a voice-based content request from a wireless device and send instructions to a Portal Node to establish a connection between the wireless device and the Portal Node, in response to receiving the content request, and the Portal Node operative to place a call to the wireless device in response to receiving the instructions from the WAP server to establish a connection between the wireless device and the Portal Node, and the WAP Server further operative to provide the content to the wireless device over the connection is missing from Boloker.

However, Lewontin discloses this in figure 1, elements 102 (the WAP server), 103 and 104 (portal nodes that provide content to the wireless device). It would have been obvious to one skilled in the art at the time of the invention to use the server/node

structure of Lewontin to perform the voice-based transactions of Boloker. The motivation would be to use a typical wireless network infrastructure (Lewontin, paragraph 25). The Voice Portal Node comprising an out-bound dialing module operative to initiate a wireless telephone call to the mobile unit is not specifically disclosed in Boloker. However, Boloker does disclose in paragraph 227 that the server may initiate communications with the wireless device; the method of communication with the wireless device would be a wireless telephone call (see paragraph 3 of Boloker, listing cell, or wireless, phones as a device that is used in a network such as the one contemplated by the invention). Further, Bernhart discloses in column 2, lines 53-55, a gateway that dials wireless devices in order to send them outgoing communications. It would have been obvious to one skilled in the art at the time of the invention to use the dialer of Bernhart to initiate the push of Boloker. The motivation would be to user a known method of connecting to the desired mobile device.

Regarding claim 21, the WAP server receives the voice-based content request from the wireless device via a WAP gateway is disclosed in Boloker, figure 24, element 211 (the wireless gateway functions as a WAP gateway).

Regarding claim 22, the WAP server sending the instructions to the Voice Portal Node via a WAP gateway to establish a connection with the wireless device and the Voice Portal Node is missing from Boloker. However, Lewontin discloses in paragraph 25 that the WAP server also functions as a WAP gateway to the web and application servers (portal nodes). It would have been obvious to one skilled in the art at the time of the invention to use the server/gateway/node structure of Lewontin to perform the

voice-based transactions of Boloker. The motivation would be to use a typical wireless network infrastructure (Lewontin, paragraph 25).

Regarding claim 2, the WAP Gateway and the Voice Portal Node communicate over a Transport Control Protocol/Internet Protocol (TCP/IP) data channel is disclosed in Boloker, paragraph 144.

Regarding claim 3, the WAP Gateway delivers a directory number of the wireless device-to the-voice portal node over the TCP/IP data channel, thereby enabling the Voice Portal Node to place the call to the wireless device is disclosed in Boloker, paragraph 169 (the voice server, which equivalent to the voice portal node, may initiate the call to the wireless device).

Regarding claim 4, the WAP Server and the WAP Gateway communicate over a Transport Control Protocol/Internet Protocol (TCP/IP) data channel is disclosed in Boloker, paragraph 144.

Regarding claim 5, the Voice Portal Node is further operative to receive the voice-based content from the WAP Server and to deliver the voice-based content to the wireless device is disclosed in Boloker paragraph 199 (the remote content server is the WAP server).

Regarding claim 6, the voice-based content is delivered to the Voice Portal Node in Voice Extensible Markup Language (VXML) format is disclosed in paragraph 71.

Regarding claim 7, the Voice Portal Node is operative to convert the voice-based content in VXML format received from the WAP Server to an audio message and deliver

the audio message to the wireless device is disclosed in paragraph 134 and figure 22 (the VoiceXML browser does this).

Regarding claim 8, the WAP Server is further operative to send an email message containing the voice-based content in a text form to an email address is disclosed in paragraph 6 (the system may be used to send email, which may be accessed by the wireless client's browser).

Regarding claim 9, the WAP server is equipped with an email server operative to format and transmit the email message is disclosed in paragraph 252 (text information may be sent and received).

Regarding claim 10, the WAP Server is further operative to simultaneously provide voice-based and text-based content to the wireless device is disclosed in paragraph 252 (text information may be sent and received) and the last sentence of paragraph 80 (voice and visual modes may be simultaneous, see also paragraphs 81-82).

Regarding claim 11, a method for delivering voice-based content and textbased content to a Wireless Application Protocol (WAP) device is disclosed in paragraphs 80, 221 and 252 of Boloker. Establishing a WAP-based connection between the WAP device and a WAP Server is disclosed in figure 24 (the WAP network line running from element 216 to element 41). Establishing a telephonic connection between the WAP device and a Voice Portal Node is disclosed in figure 24 (the Wireless Data Connection or Voice Connection line running between elements 217). Receiving the voice-based content from the WAP server and delivering the voice based content to the WAP device

over the telephonic connection is disclosed in figure 24 (the lines running between element 219 and 41, and 41 and 214). After establishing the WAP-based connection between the WAP device and the WAP server, determining whether the voice based content is requested, and if the voice-based content is requested, establishing the telephonic connection is missing from Boloker. However, Lewontin discloses in figure 1 and paragraph 25 a WAP server (figure 1, element 102) that determines if content from web server or application server (figure 1, elements 103 and 104; they function as portal nodes) is requested, and if so, a connection is established between the phone and the web or application server. It would have been obvious to one skilled in the art at the time of the invention to deliver the voice-based content of Boloker using the server/node structure of Lewontin. The motivation would be to use a typical wireless network infrastructure (Lewontin, paragraph 25). The Voice Portal Node comprising an out-bound dialing module operative to initiate a wireless telephone call to the mobile unit is not specifically disclosed in Boloker. However, Boloker does disclose in paragraph 227 that the server may initiate communications with the wireless device; the method of communication with the wireless device would be a wireless telephone call (see paragraph 3 of Boloker, listing cell, or wireless, phones as a device that is used in a network such as the one contemplated by the invention). Further, Bernhart discloses in column 2, lines 53-55, a gateway that dials wireless devices in order to send them outgoing communications. It would have been obvious to one skilled in the art at the time of the invention to use the dialer of Bernhart to initiate the push of Boloker. The

motivation would be to user a known method of connecting to the desired mobile device.

Regarding claim 12, modifying the delivery of the voice-based content in response to receiving a user instruction over the telephonic connection is disclosed in Boloker, paragraphs 80-82.

Regarding claim 13, modifying the delivery of the voice-based information in response to receiving a user instruction over the WAP-based connection is disclosed in Boloker paragraphs 80-82 (the system may switch between modes based on requests received from any form of communication with the wireless end device).

Regarding claim 14, modifying the delivery of the text-based content in response to receiving a user instruction over the telephonic connection is disclosed in Boloker paragraphs 80-82 (the system may switch between modes based on requests received from any form of communication with the wireless end device) and 252 (disclosing text).

Regarding claim 15, modifying the delivery of the text-based content in response to receiving a user instruction over the WAP-based connection is disclosed in paragraphs 80-82 (the system may switch between modes based on requests received from any form of communication with the wireless end device) and 252 (disclosing text).

Regarding claim 16, the WM-based connection between the WAP device and the WAP Server is made through a WAP Gateway is disclosed in figure 24, element 211 (the wireless gateway functions as a WAP gateway).

Regarding claim 17, prior to delivering the voice-based content to the WAP device over the telephonic connection, translating the voice-based content from a Voice Extensible Markup Language (VXML) format to an audible message is disclosed in paragraphs 80-82 (the content is delivered in whatever format desired by the end user) and figure 24, element 218 (the VoiceXML browser does this).

Regarding claim 18, translating an audible voice user instruction to Voice Extensible Markup Language (VXML) format for delivery to the WAP Server is disclosed in figure 22 and paragraph 39 (the VoiceXML browser does this).

Regarding claim 19, accessing a WAP-enabled web site associated with the WAP server, and transmitting a voice-based content request to the WAP Server, via the WAP enabled web site is disclosed in is disclosed in paragraph 199 (the device may access remote internet sites).

Regarding claim 23, delivering the text-based content to the WAP device over the WAP-based connection is disclosed in paragraphs 80-82 (the system may switch between modes based on requests received from any form of communication with the wireless end device) and 252 (disclosing text).

Regarding claim 20, a Wireless Application Protocol (WAP) system for delivering voice-based content and text-based content to a user of a wireless device is disclosed in paragraph 221 and paragraph 252 of Boloker. A Voice Portal Node is disclosed in Boloker, figure 24, element 213. A WAP Server operative to receive of a voice-based content request from a wireless device and send instructions to a Portal Node to establish a connection between the wireless device and the Portal Node, in response to

receiving the content request, and the Portal Node operative to place a call to the wireless device in response to receiving the instructions from the WAP server to establish a connection between the wireless device and the Portal Node, and the WAP Server further operative to provide the content to the wireless device over the connection is missing from Boloker. However, Lewontin discloses this in figure 1, elements 102 (the WAP server), 103 and 104 (portal nodes that provide content to the wireless device). It would have been obvious to one skilled in the art at the time of the invention to use the server/node structure of Lewontin to perform the voice-based transactions of Boloker. The motivation would be to use a typical wireless network infrastructure (Lewontin, paragraph 25). Routing the information to the wireless device via a directory number is not specifically disclosed in Boloker. However, Boloker does disclose in figure 26 and paragraph 403 that the WAP and Voice servers communicate with the mobile via the edge server; the WAP and Voice servers must both know the identification (a directory number is a common type of identification) of the mobile device in order to indicate to the edge server where the content should be routed. It would have been obvious to one skilled in the art at the time of the invention to send a directory number with the request for the purpose of routing the response. The motivation would be to be able to communicate back with the mobile device (Boloker, paragraph 403). Delivering voice-based content and the text-based content is disclosed in Boloker paragraphs 80-82 and 252. The Voice Portal Node comprising an out-bound dialing module operative to initiate a wireless telephone call to the mobile unit is not specifically disclosed in Boloker. However, Boloker does disclose in paragraph 227 that

the server may initiate communications with the wireless device; the method of communication with the wireless device would be a wireless telephone call (see paragraph 3 of Boloker, listing cell, or wireless, phones as a device that is used in a network such as the one contemplated by the invention). Further, Bernhart discloses in column 2, lines 53-55, a gateway that dials wireless devices in order to send them outgoing communications. It would have been obvious to one skilled in the art at the time of the invention to use the dialer of Bernhart to initiate the push of Boloker. The motivation would be to user a known method of connecting to the desired mobile device.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia L Davis whose telephone number is (571) 272-3117. The examiner can normally be reached on 8:30 to 6, Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLD

1/27/2006

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1/27/06

A handwritten signature in black ink, appearing to read "Dorothy". The signature is fluid and cursive, with a long horizontal stroke on the left and a more stylized, looped section on the right.